

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

X
NICOLAS HERRAR, MIGUEL PERALTA, and
VICTOR XOCHIMITL, on behalf of themselves
and others similarly situated,

Plaintiffs,

v.

12 WATER STREET GOURMET CAFÉ, LTD., WATER
ST. GOURMET INC., YASSIN ZAKI AND JOHN
DOES 1-3,

Defendants.

X

Civ Case No.: 1:13-cv-4370-JMF

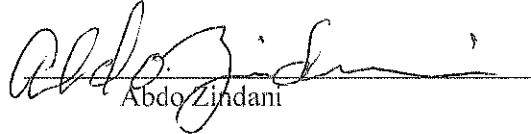
**AFFIDAVIT IN SUPPORT OF
DEFENDANT ABDO ZINDANI
MOTION TO VACATE A
DEFAULT JUDGEMENT**

ABDO ZINDANI, hereby deposes and says under penalty of perjury:

1. I am the Defendant in the above titled action.
2. I was an employee of 12 Water Street Gourmet Café, Ltd. (hereinafter referred to as Water Street). I have been an employee of Water Street for approximately twenty (20) years.
3. I have no ownership interest in Water Street, nor am I an officer or director thereof, and have never had such ownership interest or executive role in the company.
4. I am an employee of Water Street only, with some select and limited managerial duties.
5. I do not have any authority to hire or fire any employees for Water Street, including Plaintiffs.
6. I do not have any authority to set the pay rates of any employees of Water Street, including Plaintiffs.
7. I do not record any employee's time, including Plaintiffs' time, and I have no decision making authority in determining how time is recorded for Water Street.
8. I do not make any decisions and have no authority regarding payroll, do not process payroll, and do not sign any paychecks for Water Street.
9. I have no authority in determining what, if any, form in which payment is made, timing of any payment, or the amounts of any payment, nor do I have any role or responsibility in determining how these decisions are made or how these actions are taken within Water Street.

10. I have no responsibility in making any disclosures which may be required under state or federal law, nor do I have any role in processing or obtaining any paperwork for onboarded employees at Water Street.
11. My role for Water Street is as an employee only, and I have no independent decision making authority.
12. My managerial role is primarily to see that customers receive a satisfactory experience. My primary responsibility is to greet incoming patrons, stock shelves and oversee inventory. If there is a customer service issue during my shift, I report these matters to the Water Street ownership to act upon at their sole discretion.
13. I never received a copy of the summons and complaint in this action.
14. It was not until on or about the October 15, 2021 that I became aware that a default judgement had been entered.
15. After determining what a default judgement was, I immediately began searching for an attorney to protect my interests, which was a considerably difficult task given my lack of experience and resources.
16. I quickly settled on Michael Walker, and retained him as my attorney. Shortly thereafter, Mr. Walker instituted the instant motion to vacate the default judgment.
17. I respectfully submit that I acted at all times under the assumption that an answer had been served and appearance entered by an attorney my behalf, and at no point engaged in any delay. Upon being informed that these actions had not been taken, I immediately acted in retaining counsel. I respectfully submit, therefore, that there has been no prejudicial delay and that justice would not be served in denying this motion.

Wherefore, Defendant respectfully request the default judgement be vacated and that he be permitted to tender a substantive defense in this matter on the merits.


Abdo Zindani

Sworn to before me this
10th day of November, 2021.


Notary Public

